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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

November 14, 1994

OUR FILE NO.  
0010-217-63

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554


RE: MM Docket No. 94-101  
RM-8510  
FM Table of Allotments  
Kerman, California

Dear Mr. Caton:

Transmitted herewith, on behalf of EBE Communications Limited Partnership, are an original and four copies of its **COMMENTS AND COUNTERPROPOSAL** in the above-referenced rulemaking proceeding.

Should further information be desired, kindly communicate directly with this office.

Very truly yours,

  
Melodie A. Virtue

Enclosures (6)  
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Before The

**Federal Communications Commission**

Washington, D.C. 20554

In The Matter Of

Amendment of Section 73.202(b)  
Table of Allotments,  
FM Broadcast Stations.  
(Kerman, California)

MM Docket No. 94-101 NOV 14 1994  
RM-8510

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

TO: Chief, Allocations Branch

**Comments and Counterproposal**

EBE Communications Limited Partnership ("EBE"), by counsel and pursuant to Section 1.420 of the Commission's Rules, hereby submits its Comments and Counterproposal in the above-referenced rulemaking proceeding to request the substitution of Channel 237A at Kerman, California, in lieu of the proposed Channel 252A. In support thereof, the following is submitted:

1. EBE is the licensee of KNAX(FM), Fresno, California, which operates on Channel 250B. EBE has filed an application to improve KNAX's coverage of Fresno by moving to a new site. The application was submitted to the Commission's lock box in Pittsburgh, Pennsylvania, for receipt on Monday, November 14, 1994. The application is mutually exclusive with the above-captioned proceeding.

2. The Commission issued a *Notice of Proposed Rulemaking* ("NPRM"), DA 94-992, released September 20, 1994, which proposed to add Channel 252A at Kerman, California, to the FM Table of Allotments. The proposed new allotment will be short spaced to the proposed KNAX

site unless a different channel is substituted. As set forth in the attached Engineering Statement, the Commission can proceed with allotting Channel 237A to Kerman with a site restriction of 11 kilometers west-southwest of Kerman in lieu of Channel 252A. Allotment of Channel 237A instead of Channel 252A to Kerman would allow KNAX to improve significantly its coverage to its community of license and remove the conflict between the instant rulemaking and KNAX's application.

3. For years, KNAX transmitted from a site in downtown Fresno until it was forced to move in 1989. KNAX relocated to the Meadow Lakes Antenna farm, 49 kilometers northeast of Fresno, where service to its city of license has proven to be marginal. While KNAX's continued operation from its existing site makes it possible to drop Channel 252A into Kerman, that allotment would forever preclude KNAX from improving service to Fresno. In order to permit KNAX to move closer to Fresno, a different channel must be allotted to Kerman.

4. The public interest will be served if the channel EBE proposes for the Kerman allotment -- Channel 237A -- is adopted. Not only will Kerman residents receive a second local service, but the coverage of KNAX to Fresno will also be greatly improved. Particularly within its city grade contour, service from KNAX's proposed site to Fresno will be remarkably better than it has been from its existing site. Indeed, the population within Fresno and Madera Counties that will receive a 70 dBu-strength signal will increase 276% from the move. Operation from the new site will also provide a net gain in coverage of 7% geographic area within KNAX's 60 dBu contour, making KNAX's use of

the channel more efficient from a spectrum allocation perspective. See attached Engineering Statement. More residents of Fresno and the surrounding areas, therefore, will be able to receive a strong KNAX signal.

5. Allotting an alternate channel with a site restriction to Kerman from that proposed in the *NPRM* is consistent with the Commission's allocation procedures and priorities. The Commission has stated previously that "[t]he staff will also attempt to resolve conflicts between a rulemaking petition and a later-filed FM application by imposing a site restriction on the proposal in the petition, or by allotting an alternate channel for that proposed in the petition, whenever it is possible to do so without prejudice to a timely filed FM application or rulemaking petition." *Conflicts Between Applications and Petitions for Rulemaking to Amend the FM Table of Allotments*, 8 FCC Rcd. 4743, 4745 n.12 (1993). Adopting EBE's proposal will not prejudice either party and instead will remove the conflict and improve service to the public in Fresno while accommodating a new service in Kerman.

6. As is evidenced by the concurrent filing of its minor modification application, EBE's intent to file its application has been shown. EBE also intends to construct its modified facilities promptly after a grant of its application for a construction permit to change its site.


WHEREFORE, the premises considered, EBE Communications Limited Partnership respectfully requests that the Commission reject the allotment of Channel 252A to Kerman and, if interest in a new allotment

at Kerman is expressed, that the Table of FM Allotments be amended as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Kerman, CA	232A	232A, 237A

Respectfully submitted,

EBE COMMUNICATIONS LIMITED  
PARTNERSHIP

By   
Theodore D. Kramer  
Melodie A. Virtue  
Its Attorneys

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November 14, 1994

## **New FM Station • 95.3 MHz, Channel 237A • Kerman, California**

### **Statement of William F. Hammett, Consulting Engineer**

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by EBE Communications, L.P., licensee of FM Station KNAX, Channel 250B, Fresno, California, to prepare this Engineering Exhibit in support of a petition to allot Channel 237A at Kerman, California.

### **Background**

FM Station KNAX has served Fresno, California, and the surrounding communities since 1948. In 1989, the station was required to vacate its long-time site on top of the Fresno *Bee* building in downtown Fresno and chose at that time to relocate the transmitting facilities to the Meadow Lakes antenna farm, 49 kilometers northeast of Fresno. From that location, service into Fresno has proved to be marginal, and KNAX seeks to relocate again to a site closer to the city of license. The recent proposal to add Channel 252A to Kerman, California, was made possible by the move of KNAX to a location so far from Fresno, and that allotment of Channel 252A to Kerman would effectively preclude KNAX from ever regaining its lost service.

### **Proposed Conditions**

Therefore, Channel 237A has been identified as an alternate channel for serving the community of Kerman. A site restriction of 11 kilometers west-southwest would be required, in order to protect existing allotments; however, this does not prevent such a new station from serving Kerman, as the principal community contour for Class A stations extends a distance of 16 kilometers. The proposed reference coordinates for the Channel 237A allotment at Kerman are 36° 41' 00" N 120° 10' 48" W (NAD27), at which location the spacing requirements in §73.207 of the FCC Rules are met to all existing stations, permits, allotments, and proposals, as shown below:

<u>Channel</u>	<u>Nearest Station</u>	<u>FCC Required Distance</u>	<u>Distance from Proposal</u>
234A	Vacant, Firebaugh, CA	31 kilometers	31 kilometers
235B	KBOS-FM, Tulare, CA	69	111
236B	KDJK, Oakdale, CA	113	127
237B1	KLLY, Oildale, CA	143	171
238A	KBOQ, Carmel, CA	72	145
239B	KJFX, Fresno, CA	69	69
240A	KNTD, Livingston, CA	31	85
290B	KKDJ, Fresno, CA	15	80
291A	Proposal, San Lucas, CA	10	97



New FM Station • 95.3 MHz, Channel 237A • Kerman, California

Conclusion

The counterproposal to allot Channel 237A to Kerman, California, as its second local aural service will allow the needs of that community to be fully met while also allowing FM Station KNAX to better serve Fresno, its city of license.



*William F. Hammett*

William F. Hammett, P.E.

Subscribed and sworn to before me this 11th day of November, 1994



*Jeri L. Thomsen*



HAMMETT & EDISON, INC.  
CONSULTING ENGINEERS  
SAN FRANCISCO

**FM Station KNAX • 97.9 MHz, Channel 250B • Fresno, California**

**Comparative Coverage:  
Owens Mountain vs. Meadow Lakes**

**Owens Mountain (KSTY site)**

Database: 1990 census, rev. 920714

Coordinates: N. Lat. 36 55 48  
W. Long. 119 38 27

State			
County	70 dBu	60 dBu	
<hr/>			
California			
Fresno County	526,279	622,496	
Kings County		965	
Madera County	25,255	74,158	
Mariposa County		79	
Merced County		39	
Tulare County		34,599	
		<hr/>	
	551,534	732,336	
	+267%	+9%	
Area covered, km <sup>2</sup>	3,432	8,606	
	+8%	+7%	

popct v1.10

**Meadow Lakes (existing site)**

Database: 1990 census, rev. 920714

Coordinates: N. Lat. 37 04 29  
W. Long. 119 25 52

State			
County	70 dBu	60 dBu	
<hr/>			
California			
Fresno County	132,123	590,203	
Kings County			
Madera County	18,264	73,003	
Mariposa County		4,429	
Merced County		12	
Tulare County		5,778	
		<hr/>	
	150,387	673,425	
Area covered, km <sup>2</sup>	3,178	8,062	



**HAMMETT & EDISON, INC.**  
CONSULTING ENGINEERS  
SAN FRANCISCO

November 10, 1994



CERTIFICATE OF SERVICE

The undersigned, an employee of Haley, Bader & Potts, hereby certifies that the foregoing document was mailed this date by First Class U.S. Mail, postage prepaid, or was hand-delivered\*, to the following:

Mr. Joe S. Mauk  
Valley Center Broadcasting  
365 W. Menlo Avenue  
Fresno, CA 93704

John A. Karousos\*  
Acting Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Room 8322  
2025 M Street, N.W.  
Washington, D.C. 20554



November 14, 1994